

**STATE OF IDAHO
OUTFITTERS AND GUIDES LICENSING BOARD
SPECIAL BOARD MEETING**

FINAL MINUTES

MAY 22, 2019

**(KEY: MSC = MOTION: MADE, SECOND: CARRIED
MSF = MOTION: MADE, SECOND: FAILED)**

THE SPECIAL MEETING OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD WAS CALLED TO ORDER AT 10:30 A.M. ON WEDNESDAY MAY 22, 2019 IN THE MEETING ROOM AT THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD OFFICE, 1365 N. ORCHARD STREET, ROOM 172, BOISE, IDAHO. BOARD MEMBERS BOB BAROWSKY (CHAIRMAN), LOUISE STARK AND WAYNE HUNSUCKER WERE PRESENT. PARTICIPATING BY CONFERENCE CALL WERE BOARD MEMBERS TOM LONG AND GEORGE MCQUISTON. PRESENT IN THE OFFICE WERE EXECUTIVE DIRECTOR LORI THOMASON BOARD ATTORNEYS ROGER HALES AND JOAN CALLAHAN AND OFFICE SUPERVISOR AMANDA HARPER.

ROLL CALL: Present in the office were Board members Bob Barowsky (chairman), Wayne Hunsucker, Louise Stark, Board Attorney Roger Hales, Board Attorney Joan Callahan, and Office Supervisor Amanda Harper. Participating by conference call were Board members Tom Long and George McQuiston, Division of Financial Management Staff Colby Cameron, Tony Eldeen, and Misty Lawrence. Identifying themselves in the audience were Will Marcroft, Blaine Hamilton, Brad Waters, Tammy Overacker, John Watts, Robert Hennefer, Carla Hennefer, Darl Allred, Jim Hamilton, Aaron Lieberman (IOGA) and Grant Simonds (IOGA). Jeff Bitton (IOGA) was listening in on a personal cell phone.

TEMPORARY RULE FOR DESIGNATION OF CAPPED AND CONTROLLED OUTFITTER ALLOCATED TAGS – Board Attorney Roger Hales stated that some of the Board members have expressed that they would like to revisit allocation calculations as they relate to the controlled and capped zone hunts. He recapped the history and process dealing with allocated tags. In 2018 a temporary rule was adopted, which used the concepts that most all outfitters were used to when it came to recalculating deer and elk tags that had derived from the previously used allocation manual policy. He stated that IOGLB took that temporary rule to the Legislature to extend the rule while legislative changes were worked out, but the IOGA and a few outfitters opposed the rule and based on that opposition the Legislature rejected it. He pointed out that once the Legislature adjourned, the temporary rule went away. Once the temporary rule went away all IOGLB had to help guide them with the designation of allocated tags was the new law. He said that in the law it states when Fish and Game does a big game season setting the IOGLB calculates allocated tag totals among the outfitters. Mr. Hales said that Fish and Game did a season setting this year at the March 2019 Fish and Game Commission meeting. He said that once the season setting happened, the Board had a special Board meeting with the IOGA present and the question was asked if the Board should apply the new law to the entire state or the temporary rule that was still in effect at that time. He reminded the Board that the IOGA wanted to use the new law for calculations. The Board then adopted a new temporary rule for the new law. Mr. Hales said that is how the Board and staff members moved forward with calculations for all outfitters. He said that this is the concern that was expressed, and the Board needs to determine if they would like to do anything with a temporary rule and the final recalculation orders that were sent to all hunting outfitters. Board member Louise Stark said that in order to deal with the issue that is before them today, which is the calculations of the entire state's controlled and capped hunt system, she would like to see all final recalculation orders rescinded and only the hunt areas that were

adjusted by Fish and Game recalculated. She stated that her concern and the concern she has heard from the outfitted community was that the controlled hunt numbers that were used combined species, gender etc. and because of that, the recalculated numbers were incorrect. Mr. Hales said that the way the law was written and interpreted states “deer and elk” were to be used and not “deer or elk” and that was the reasoning behind why the hunter totals were what they were. Ms. Stark said that Fish and Game did not consider those numbers under the new law when it did the season setting in March for 2019 and 2020. She thinks that IOGLB needs to wait to enact the new law and the authority that is connected with it, until the Fish and Game evaluates the numbers associated with outfitters historic use under the new law. **MSC (MOTION: STARK, SECOND: MCQUISTON; AYES – NONE; NAYES – NONE) MOVE TO RESCIND AND VOID ALL THE FINAL ORDERS SENT OUT FROM THE BOARD TO THE OUTFITTERS THAT DEALT WITH CONTROLLED HUNTS INCLUDING THE NEW ZONE HUNTS FOR COWS.**

MSC (MOTION: STARK, SECOND: MCQUISTON; AYES – LONG, HUNSUCKER, STARK, MCQUISTON AND BAROWSKY; NAYES – NONE) TABLED PREVIOUS MOTION UNTIL LATER IN THIS BOARD MEETING.

Cont. Temporary Rule for Designation of Capped and Controlled Outfitter Allocated Tags – Board member George McQuiston said that historically a problem with recalculation has been final use reports. He would like to use either vouchered use or final use, whichever is greater. He said that historically the vouchered use and the final use have not matched. He believed that this would help those outfitters who lent their tags out and played by the previous rules. Board Attorney Roger Hales said that a concern he has is vouchered use is no longer a term that is used. He said this was a concept that was from the old allocation manual policy and the expired temporary rule.

Board member Wayne Hunsucker said that since Fish and Game did not change all allocated numbers this year and the numbers that were released by them were from vouchered use in 2017 and 2018, he recommends that the Board not recalculate until the calculation issue is worked out through a negotiated rule making session. He asked if this recommendation is defensible. Mr. Hales said that whatever decision the Board makes he will do to the best of his ability to defend those decisions. He continued that the new law does not limit to only the hunt areas that change, it simply states a calculation is to occur when the big season setting occurs by Fish and Game.

Aaron Lieberman, IOGA Executive Director, let the Board know that the IOGA is in support of the interpretation within the new law that states that deer and elk should be interpreted as deer or elk and not mix the species together when calculating hunter use totals for controlled hunts. He said similarly they would support only recalculating the hunt areas that were either increased or decreased during the Fish and Game season setting. Mr. Lieberman said that the IOGA is appreciative of all the Board has done and wishes to work with the Board to do the right thing for the outfitters.

MSC (MOTION: LONG, SECOND: HUNSUCKER; AYES – MCQUISTON, STARK, LONG, HUNSUCKER AND BAROWSKY; NAYES – NONE) THREE PART MOTION; FIRST, TO AMEND THE TEMPORARY RULE AS IT RELATES TO CONTROLLED HUNTS TO MAKE THE “AND” AN “OR” TO SEPARATE ELK AND DEER USE; SECOND, WHEN IT COMES TO USE FOR CONTROLLED HUNTS TO LOOK AT THE SAME TYPE, SPECIES, WEAPON, TIME AND LOCATION TO THE EXTENT POSSIBLE TO COME UP WITH USE THAT MOST CLOSELY MATCHES EACH CONTROLLED HUNT; THIRD, AS IT RELATES TO CONTROLLED HUNTS WE WILL ONLY RECALCULATE THE CONTROLLED HUNTS THAT HAD CHANGES TO THE ALLOCATED TAG NUMBERS BY FISH AND GAME AT THE MARCH 2019 COMMISSION MEETING.

MSC (MOTION: STARK, SECOND: HUNSUCKER; AYES – MCQUISTON, LONG, STARK, HUNSUCKER AND BAROWSKY; NAYES – NONE) RESCIND AND VOID ALL THE FINAL ORDERS SENT OUT FROM THE BOARD TO THE OUTFITTERS FOR CONTROLLED HUNTS.

MSC (MOTION: MCQUISTON, SECOND: FAILED; AYES – NONE; NAYES – NONE) ONLY ADDRESS THE CAPPED ZONE CHANGES THAT WERE MADE BY FISH AND GAME IN MARCH 2019 AS IT RELATES TO OUTFITTER ALLOCATION UNDER THE NEW STATUTE AND TO USE THE HIGHEST USE REPORTED TO EITHER FISH AND GAME OR IOGLB.

Cont. Temporary Rule for Designation of Capped and Controlled Outfitter Allocated Tags – Board member George McQuiston expressed that he felt the Board should only deal with the capped zones that were recalculated by Fish and Game at the March 2019 Commission meeting. Board Attorney Roger Hales clarified that Mr. McQuiston's previous motion would only effect capped zones and only affect the zones that were changed by Fish and Game in March 2019. He said that in those changes the Board is obligated to use the new statute to calculate. He said that there is no other method to calculate designated tags. Mr. McQuiston said he would like to give the outfitters the benefit of the doubt and use actual use or vouchered use, whichever is higher. He continued that he would like to protect the outfitters that were recalculated in December 2018 due to that recalculation happening prior to the new law. Mr. Lieberman suggested that the IOGLB use the methodology that was proposed by the IOGA for recalculation. Attorney Hales said that at the demonstration that was given of that methodology by IOGA President Jeff Bitton, Mr. Bitton said that to understand how the calculation works you would have to do it nine times before it would make sense. Mr. Hales said this could be problematic and time consuming for the staff as well as there were concepts in that proposal that he cannot square with the present law due to the new law only using the past two years of use, not historical use, and base allocation numbers.

MSC (MOTION: HUNSUCKER, SECOND: MCQUISTON; AYES – STARK, LONG, HUNSUCKER, MCQUISTON AND BAROWSKY; NAYES – NONE) ONLY CALCULATE THE CAPPED ZONE CHANGES THAT WERE MADE BY FISH AND GAME IN MARCH 2019 AS IT RELATES TO ALLOCATION UNDER THE NEW STATUTE AND TO USE THE LOLO AND DIAMOND CREEK DECISION MADE IN DECEMBER 2018 BY THE BOARD AND TO AMEND THE RULE TO UTILIZE THE BEST REPORTED USE AVAILABLE.

DISCUSSION ON REQUESTS FOR RECONSIDERATION – Mr. Hales said that based on the action the board took at today's board meeting, where the previous final order notices were rescinded, he believed this has resolved all the objections and requests that were received. Board member Louise Stark requested IOGLB staff verify the accuracy of the numbers in the Fish and Game regulations related to a discrepancy in Unit 27's allocated numbers.

MSC (MOTION: HUNSUCKER, SECOND: STARK; AYES – MCQUISTON, LONG, HUNSUCKER, STARK AND BAROWSKY; NAYES – NONE) MOTION TO GO INTO EXECUTIVE SESSION AT 12:59 P.M. TO DISCUSS WITH LEGAL COUNSEL LITIGATION PERTAINING TO ALLREDS ADVENTURES LLC VS. IOGLB PURSUANT TO IDAHO CODE 74-206(1)(F).

MSC (MOTION: HUNSUCKER, SECOND: STARK; AYES – LONG, MCQUISTON AND BAROWSKY; NAYES – NONE) TO COME OUT OF EXECUTIVE SESSION AT 2:02 P.M. WITH NO DECISIONS MADE

Board Meeting Minutes – May 22, 2019

With no further business to come before the Board, Chairman Barowsky adjourned the meeting at 2:05 p.m., Wednesday May 22, 2019.


BOB BAROWSKY, BOARD CHAIRMAN Aug 1 2019
Date

ATTEST:


LORI THOMASON, EXECUTIVE DIRECTOR Aug 1 2019
Date